

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL JAMES NISSEN,

Plaintiff,

vs.

No. CV 21-00547 MV/JHR

UNITED STATES ATTORNEY GENERAL
MERRICK GARLAND,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Rule 41(b) of the Federal Rules of Civil Procedure on the Complaint for Violation of Civil Rights filed by Michael James Nissen. The Court will dismiss the Complaint without prejudice for failure to comply with Court order, statutes, and rules, and failure to prosecute this proceeding.

Plaintiff filed his Complaint for Violation of Civil Rights on June 14, 2021. (Doc. 1). He did not pay the filing fee or submit an application to proceed *in forma pauperis* at the time he filed the Complaint. The Court entered an Order to Cure Deficiency on June 16, 2021, directing Plaintiff to either pay the filing fee or submit an application to proceed under 28 U.S.C. § 1915 within thirty days of entry of the Order. (Doc. 2). With the Order to Cure, the Court also provided Plaintiff with a form Application to Proceed in District Court Without Prepayment of Fees or Costs. (Doc. 2 at 2). The Order advised Plaintiff that, if he failed to cure the deficiency within the 30-day time period, the Court could dismiss this proceeding without further notice. (Doc. 2 at 1). More than 30 days elapsed after entry of the Court's Order to Cure Deficiency and Plaintiff did

not pay the \$400 filing fee, submit an application to proceed under § 1915 in proper form, or otherwise respond to the concerns raised in the Court's June 16, 2021 Order.

Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the filing fee from Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has failed to either pay the \$400.00 filing fee or submit an application to proceed under § 1915 in proper form. The Court may dismiss a proceeding under Rule 41(b) for failure to comply with statutes or rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with 28 U.S.C. §§ 1914, 1915, failure to comply with the Court's Orders of June 19, 2019 and September 4, 2019, and failure to prosecute this proceeding.

IT IS ORDERED the Complaint for Violation of Civil Rights filed by Plaintiff Michael James Nissen June 14, 2021 (Doc. 1) is **DISMISSED** without prejudice under Rule 41(b) for failure to prosecute and failure to comply with 28 U.S.C. §§ 1914 and 1915 and the Court's June 16, 2021 Order.


UNITED STATES DISTRICT JUDGE